

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

FILED BY  D.C.

05 DEC 16 AM 8:37

THOMAS M. GOULD
CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE

JAMES F. MASON,

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendant.

X
X
X
X
X
X
X
X
X
X
X

No. 05-2820-M1/P

ORDER DIRECTING PLAINTIFF TO FILE A PROPERLY COMPLETED
IN FORMA PAUPERIS AFFIDAVIT OR PAY THE CIVIL FILING FEE

Plaintiff James F. Mason, a resident of Arkansas, filed a pro se complaint pursuant to, inter alia, the Federal Tort Claims Act, 28 U.S.C. 2671 et seq., on October 31, 2005.¹

Federal law provides that the "clerk of each district court shall require the parties instituting any civil action, suit or proceeding in such court, whether by original process, removal or otherwise, to pay a filing fee of" \$250. 28 U.S.C. § 1914(a).² To ensure access to the courts, however, 28 U.S.C. § 1915(a) permits an indigent plaintiff to avoid payment of filing fees by filing an in forma pauperis affidavit. Under that section, the

¹ Although the plaintiff also purports to sue pursuant to 28 U.S.C. § 1916, this is not a suit by a seaman "for wages or salvage or the enforcement of laws enacted for their health or safety" and, therefore, plaintiff is not excepted from paying the civil filing fee.

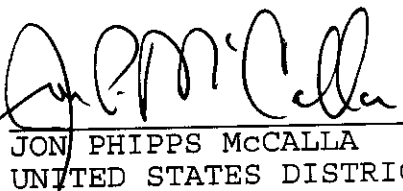
² Effective March 7, 2005, the civil filing fee was increased from \$150 to \$250.

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Court must conduct a satisfactory inquiry into the plaintiff's ability to pay the filing fee and prosecute the lawsuit. A plaintiff seeking in forma pauperis standing must respond fully to the questions on the Court's in forma pauperis form and execute the affidavit in compliance with the certification requirements contained in 28 U.S.C. § 1746. See, e.g., Reynolds v. Federal Bur. of Prisons, 30 Fed. Appx. 574 (6th Cir. Mar. 11, 2002); Brogue v. Fort Knox Fed. Credit Union, No. 86-1896, 1997 WL 242043 (6th Cir. May 8, 1997).

In this case, the plaintiff has not filed an in forma pauperis application. He is ORDERED, within forty-five (45) days of the date of entry of this order, to file a properly completed in forma pauperis affidavit or pay the civil filing fee. The Clerk is ORDERED to send plaintiff a copy of the nonprisoner in forma pauperis affidavit along with this order. Failure to timely comply with this order will result in dismissal of this action, pursuant to Fed. R. Civ. P. 41(b), for failure to prosecute.

IT IS SO ORDERED this 15 day of December, 2005.


JON PHIPPS MCCALLA
UNITED STATES DISTRICT JUDGE



Notice of Distribution

This notice confirms a copy of the document docketed as number 2 in case 2:05-CV-02820 was distributed by fax, mail, or direct printing on December 16, 2005 to the parties listed.

James F. Mason
P.O. Box 981
Forrest City, AR 72336

Honorable Jon McCalla
US DISTRICT COURT